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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,923	07/30/2003	Lothar Gluderer	WSO-41956	1925

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EXAMINER

GILBERT, SAMUEL G

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/629,923	<b>Applicant(s)</b> GLUDERER, LOTHAR	
	<b>Examiner</b> Samuel G. Gilbert	<b>Art Unit</b> 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/24/2005 has been entered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hood et al (5,975,081).

Claim 1 - the device as a whole is a room having wellness apparatus, element -26- is a chamber forming device (living unit), element -46- is a control device, elements -74- are biosensors and the system is directly controlled based on the sensed parameters, column 18 lines 40-44 and claim 1 are examples. It is the examiner's position that "room" is a broad term as defined by Webster's Ninth New Collegiate Dictionary – an extent of space occupied by or sufficient or available for something.

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Hood teaches a device that has sufficient space to live in at least temporarily. The applicant has not set forth any specific definition in the specification at the time the application was filed to define the "room" differently from the common definition. In this case the system -10- is considered a "room" having a living unit -26-. The device is portable and therefore clearly capable of being installed in a house.

Claim 2 - temperature is sensed, column 22, lines 39-52.

Claim 3 - the system is a closed loop system, column 25, lines 1-20.

Claims 4 and 5 - the biosensors are connected to a control device via a radio link, applicant's attention is invited to element -817-.

Claim 6 - the humidity of the O<sub>2</sub> content is considered to be a composition of fluidic media.

Claim 7 - pressure in the chamber is controlled, column 10, lines 30-45.

Claim 8 - acoustic and light is controlled, column 22, lines 39-52.

### ***Response to Arguments***

The applicant has argued that claim 1 require a non-transportable device. Such a limitation is not present in the claims as now amended.

The applicant has argued that the claimed invention is for installation in a variety of places while the device of Hood is not. It is the examiner's position that the device of Hood is capable of being installed in any of the places set forth in the claim.

The applicant also sets forth that the device is suitable for temporary and/or long-term living. It is the examiner's position that the device of Hood is capable of being used for at least temporary living.

The applicant further argues that the device of Hood is not suitable for a person to live for a "continuous /steady period" of time, pages 6/7 of applicant's response. It is the examiner's position that the claims do not contain such a limitation.

Finally, the applicant argues that Hood does not show an apparatus "to be installed..." It is the examiner's position that the device of Hood is capable of being placed in any of the claims places. The examiner is taking placing the apparatus of Hood in the desired room as "installing" the device of Hood at in that room:

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel G. Gilbert whose telephone number is 571-272-4725. The examiner can normally be reached on Monday-Friday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenberg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Samuel G. Gilbert".

Samuel G. Gilbert  
Primary Examiner  
Art Unit 3736

sgg